IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22/09/2004

CORAM

THE HONOURABLE MR.JUSTICE F.M.IBBRAHIM KALIFULLA

Writ Petition No.11415 of 1997

D.Settu .. Petitioner

-vs-

1. The Presiding Officer,
Labour Court,
Vellore 632 004.

2. The Regional Manager,
The Tamil Nadu Civil Supplies
Corporation, Palavansathu
Kuppam, Vellore, North Arcot
Ambedkar District. .. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the 1st respondent in connection with the award dated 3.12.96 in I.D.No.1147/93 and quash the same.

For Petitioner : Mr.V.Prakash

For Respondents : Mr.V.Perumal for R-2

:O R D E R

The challenge in this writ petition is to the award of the first respondent dated 3.12.1996 in I.D.No.1147 of 1993. The petitioner is a workman and the dispute relates to his non-employment. The petitioner, who joined the services of the second respondent as a watchman on 17.11.1975 on a consolidated pay of Rs.60/- per month, was employed on a regular basis from the year 1978 in a regular scale of pay. He was placed under suspension by order dated 23.11.1978 and was issued with a charge sheet. Thereafter, his service s came to be terminated by order dated 30.9.1979. The petitioner initially did not raise any dispute as against the order of termination. In the year 1992, the petitioner moved the Conciliation Machinery under the provisions of the Industrial Disputes Act by filing a petition dated 20.5.1992 invoking Section 2A(2) of the said Act. On failure of Conciliation, the

petitioner moved the first respondent Labour Court on 30.7.1993.

2. In the above stated background, on behalf of the second respondent, it was contended that Section 2A(2) itself came into statute book only from 1.11.1988 and therefore, the same will not apply to the termination of the petitioner, which occurred on 30.9.1979. It was then contended that when the petitioner was issued with the charge memo dated 20.1.1979 with the enclosures, he submitted his reply, Ex.M.4, stating that he produced a false certificate on account of his anxiety to get the job and the temptation was mooted by one Mr. Vijayarangan. The charge against the petitioner was that he had studied only upto 7th standard in the Board High School, Kannamangalam and he did not complete even 8th standard as he discontinued his studies. It was, therefore, alleged that the certificate produced by the petitioner as though he had passed 8th standard from the Harijan Welfare Elementary School, Arakkonam, was a false one. The second respondent, therefore, contended that when he admitted the guilt, there was no scope for any further enquiry and therefore, the order of dismissal passed on the charge sheet issued to the petitioner and the admission made by him should not be interfered with. It was further contended that the petitioner had no explanation to offer to cover the abnormal delay in raising the dispute, which was after more than ten years and therefore, on that ground as well, the claim was liable to be rejected. The first respondent-labour Court accepted all the above contentions of the second respondent while rejecting the claim of the petitioner.

3. As far as the award of the first respondent labour Court in accepting the stand of the second respondent as regards the proof of mis-conduct as well as the latches involved in pursuing the claim is concerned, on a perusal of the award I find that cogent and convincing reasons have been given by the first respondent- labour Court while dealing with the said contentions for accepting the same. Therefore, I do not find any flaw in the award of the first respondent in order to interfere with the same in this writ petition inasmuch as such conclusions related to the very mis-conduct alleged against the petitioner, there is no scope to interfere with the ultimate rejection of the claim of the petitioner in the impugned award.

4. However, the conclusion of the first respondent labour Court as regards the application of Section 2A(2) cannot be accepted. Inasmuch as I do not propose to interfere with the award on the other grounds, I am not dealing with the said issue in detail and it would be sufficient to state that, that part of the award dealing with Section 2 A(2) of the I.D. Act as stated by the first respondent labour Court in paragraph 8 cannot be approved and to that extent the award of the first respondent labour Court will have to be held to be not in consonance with the provision namely Section 2A(2). The writ petition, however, fails and the same is dismissed.

Index: Yes
Website: Yes
sra
To
1. The Presiding Officer,

Labour Court,
Vellore 632 004.

2. The Regional Manager,
The Tamil Nadu Civil Supplies
Corporation, Palavansathu
Kuppam, Vellore, North Arcot
Ambedkar District.